

Victim Compensation and Government Claims Board

Proposed Regulations: Title 2, California Code of Regulations, Section 649.23-649.25.

Initial Statement of Reasons

Summary. The Victim Compensation and Government Claims Board (Board) proposes to adopt California Code of Regulations, title 2, sections 649.23 through 649.25, concerning the implementation of service limitations for outpatient mental health services in the Victim Compensation Program (program).

Purpose and Rationale for Proposed Regulations. The proposed regulations implement service limitations for outpatient mental health services to insure fiscal stability. Emergency regulations that are substantially similar to the proposed regulations were effective February 3, 2003.

Section 649.23 Service Limitations for Mental Health Counseling. The proposed section implements initial service limitations for outpatient mental health counseling.

Subsection (a) establishes initial service limitations for different categories of eligible persons. This is necessary to insure that the service limitations are reasonable and appropriate.

Subsection (b) provides that the service limitations established in subsection (a) are appropriate to the level of treatment medically necessary, unless additional reimbursement is authorized by the Board. This is necessary to insure that the service limitations are properly authorized.

Subsection (c) governs the calculation of the number of individual and group counseling sessions based on the length of time of the session.

Subsection (d) provides that an eligible victim or derivative victim may receive five initial sessions. This is necessary to efficiently provide short-term, immediate mental health services to eligible persons.

Subsection (e) establishes the process for receiving more than five initial sessions and describes the information required to do so.

Subsection (f) provides that no expenses for sessions beyond the 15th session will be reimbursed without submission of required information and approval by the Board.

Subsection (g) governs how the service limitations shall apply to persons who submitted applications and received mental health treatment before the

effective date of the emergency regulations implementing the service limitations. It establishes a 30-day transition period for those already receiving eligible services.

Subsection (h) clarifies that section 649.23 does not authorize payment of expenses in excess of the limits established by Government Code section 13957(a)(2).

Section 649.24 Service Limitations for Additional Mental Health Counseling. The proposed section implements service limitations for those requesting additional mental health counseling.

Subsection (a) provides that no sessions beyond those authorized by section 649.23 shall be reimbursed without the submission of required information and approval by the Board.

Subsection (b) provides that the factor to be weighted most heavily when determining whether to reimburse additional expenses is the circumstances of the crime, as specified in subsection (e). This is necessary to insure that only services that are necessary as a direct result of the crime will be reimbursed.

Subsection (c) establishes the factors to be considered when evaluating the first request for additional treatment. This is necessary to insure that only eligible services are reimbursed.

Subsection (d) establishes the factors to be considered when evaluating subsequent requests for additional treatment. This is necessary to insure that only eligible services are reimbursed.

Subsection (e) requires that specified factors be considered when assessing the circumstances of the qualifying crime to determine eligibility for additional mental health reimbursement. This is necessary to insure that only services that are necessary as a direct result of the crime will be reimbursed.

Subsection (f) authorizes additional, limited mental health reimbursement for specific circumstances. This is necessary to circumstances that may give rise to a need for additional treatment not otherwise authorized by the regulations.

Subsection (g) governs eligibility for reimbursement exceeding the statutory caps set by Government Code section 13957(a)(2).

Section 649.25 Audit of Mental Health Counseling Providers. The proposed section provides that a provider of outpatient mental health services who receives payment from or whose services are reimbursed by the program is subject to a clinical and/or fiscal audit to ensure that treatment and reimbursement were authorized by law. This is necessary to ensure that the program reimburses only eligible services.

Mandated Use of Specific Technologies or Equipment. The Board has determined that the proposed regulations do not mandate the use of specific technologies or equipment.

Identification of Documents Relied Upon. The Board relied upon the following technical, theoretical, or empirical studies, reports, or other documents in proposing the regulations: (1) Washington State Crime Victims' Compensation Program, Mental Health Service Utilization, Executive Summary, available via the following link: www.lni.wa.gov/insurance/CrimeVictims/CVC9801sum.htm and Mental Health Treatment Guidelines, available via the following link: www.lni.wa.gov/insurance/CrimeVictims/Files/CVCMentalHealthGuide.PDF; and (2) Victim Compensation Program, Budget Paper for Board Discussion and Action, January 10, 2003, which is available via the following link: www.boc.ca.gov/BudgetPaper.pdf

Description of Reasonable Alternatives to the Proposed Regulations. The Board considered further reducing the rates paid for mental health counseling. This alternative was rejected because it feared that experienced mental health providers would be unable to provide services to victims if rates were lowered further. The Board considered statutory revisions authorizing the reduction of mental health counseling rates as needed to balance expenditures and revenues and to reduce the mental health benefit. Both of these alternatives were rejected because they would take too long to implement.

Description of Reasonable Alternatives to Lessen Adverse Impact on Small Business. The Board has determined that the proposed regulations do not have a significant adverse impact on small business, so there is no need to lessen any adverse impact on small business.